

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition: 68-021-16-1-5-00118-17
Petitioner: Larry D. Rittenhouse
Respondent: Randolph County Assessor
Parcel: 68-09-17-455-073.000-021
Assessment Year: 2016

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioner initiated his 2016 appeal with the Randolph County Assessor on July 26, 2016.
2. On December 15, 2016, the Randolph County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioner any relief.
3. The Petitioner timely filed a Petition for Review of Assessment (Form 131) with the Board on January 25, 2017.¹
4. The Board issued a notice of hearing on April 27, 2017.
5. Administrative Law Judge (ALJ) Patti Kindler held the Board's administrative hearing on June 2, 2017. She did not inspect the property.
6. Larry Rittenhouse appeared *pro se*. County Government Representative Charles Ward appeared for the Respondent. Linda Rittenhouse was a witness for the Petitioner. County Assessor Beverly Fields and Deputy Assessor George Caster were witnesses for the Respondent. All of them were sworn.

Facts

7. The property under appeal is a single-family residence located at 707 North Meridian Street in Winchester.
8. The PTABOA determined total assessment of \$31,200 (land \$7,100 and improvements \$24,100).

¹ The Petitioner did not elect the Board's small claims procedures, nor did he elect to opt-out of small claims. The total assessment of the subject property is below \$1,000,000 and the Board placed this appeal on the small claims docket without objection from either party. See 52 IAC 3-1-2.

9. On his Form 131, the Petitioner requested a total assessment of \$19,000 (land \$7,100 and improvements \$11,900).

Record

10. The official record for this matter is made up of the following:

- a) Form 131 with attachments,
- b) A digital recording of the hearing,
- c) Exhibits:

Petitioner Exhibit 1:	Form 131,
Petitioner Exhibit 2:	Sales disclosure form and title insurance data,
Petitioner Exhibit 3:	Two exterior photographs of the subject property,
Petitioner Exhibit 4:	Two photographs of listed properties,
Petitioner Exhibit 5:	Respondent's Exhibit 8 "sales-comparison analysis" with sales disclosures, property record cards, and photographs of the properties. ²

Respondent Exhibit 4:	Aerial photograph of the subject property,
Respondent Exhibit 10:	2011 Real Property Assessment Manual. ³

Board Exhibit A:	Form 131 with attachments,
Board Exhibit B:	Notice of hearing dated April 27, 2017,
Board Exhibit C:	Hearing sign-in sheet,
Board Exhibit D:	Notice of County Assessor Representation by Charles Ward.

- d) These Findings and Conclusions.

Contentions

11. Summary of the Petitioner's case:

- a) The subject property's assessment is too high. The Petitioner purchased the property, along with two additional parcels, on August 22, 2014, for \$15,000.⁴ The property was listed by a realtor prior to Mr. Rittenhouse purchasing it, but he "does not

² Petitioner's Exhibit 5, labeled Respondent's Exhibit 8, and was admitted over Mr. Ward's objection. Mr. Ward argued that "he is using our exhibit against us," but failed to offer any legal grounds for his objection. The Board adopts the ALJ's ruling and notes the inclusion of this exhibit does not effect this final determination.

³ The Respondent did not introduce Respondent's Exhibits 1, 2, 3, 5, 6, 7, 8, or 9.

⁴ There is confusion surrounding what was included in the Petitioner's purchase of the subject property. It appears Mr. Rittenhouse purchased an unimproved lot, the subject property including a wood-frame home, and a lot that includes a manufactured home. According to the Petitioner's testimony, the unimproved lot was not listed on the sales disclosure form because it is "unusable" and there is no deed for it. *Larry Rittenhouse testimony; Pet'r Ex. 2.*

remember the realtor's name or how long the property was listed." The three "contiguous parcels" are currently listed for \$24,500. *Larry Rittenhouse testimony; Pet'r Ex. 1, 2.*

- b) In an effort to prove the subject property is over assessed, the Petitioner presented evidence of two Winchester properties "listed for sale in January 2016." The first property, located on North Meridian Street, was listed for \$24,500. The second property, located on North West Street, was listed for \$16,500. These properties are "like properties" and similar in construction and style to the subject property. *Larry Rittenhouse testimony; Pet'r Ex. 3, 4.*
- c) The Respondent's evidence is flawed. The purportedly comparable properties the Respondent used to justify the assessment are not "like properties." The properties utilized by the Respondent are "not constructed the same (and) different construction will sell for different prices." *Larry Rittenhouse argument; Pet'r Ex. 5.*

12. Summary of the Respondent's case:

- a) The subject property's assessment is "fair and accurate." The purchase price of the subject property does not reflect market value-in-use. There is a lack of information surrounding the purchase. The Petitioner had the burden of proof and he failed to prove the current assessment is incorrect. *Ward argument (referencing Pet'r Ex. 2).*
- b) The current assessment was not based on the comparable properties utilized in the sales-comparison analysis introduced by Petitioner, but originally prepared by the Respondent. Nonetheless, the properties utilized in the analysis are in fact comparable to the subject property. *Ward argument (referencing Pet'r Ex. 5).*

Burden of Proof

- 13. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass'r*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). The burden-shifting statute as amended by P.L. 97-2014 creates two exceptions to that rule.
- 14. First, Ind. Code § 6-1.1-15-17.2 "applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year." Ind. Code § 6-1.1-15-17.2(a). "Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court." Ind. Code § 6-1.1-15-17.2(b).
- 15. Second, Ind. Code § 6-1.1-15-17.2(d) "applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing

authority in an appeal conducted under IC 6-1.1-15.” Under those circumstances, “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d). This change was effective March 25, 2014, and has application to all appeals pending before the Board.

16. Here, the parties agree that the assessed value of the subject property did not increase by more than 5% from 2015 to 2016. The assessment increased from \$30,300 in 2015 to \$31,200 in 2016, an increase of 2.97%. Further, the Petitioner failed to offer any argument that the burden should shift to the Respondent. Accordingly, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply and the burden remains with the Petitioner.

Analysis

17. The Petitioner failed to make a prima facie case for reducing the assessment.
- a) Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
 - b) Regardless of the method used, a party must explain how the evidence relates to the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For a 2016 assessment, the valuation date was January 1, 2016. *See* Ind. Code § 6-1.1-2-1.5.
 - c) The Petitioner offered evidence that he purchased the property, along with two other parcels, on August 22, 2014, for \$15,000. Often, the purchase price of a property is the best evidence of the property's value. *See Hubler Realty Co. v. Hendricks Co. Ass'r*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010) (the court upheld the Board's determination that the weight of the evidence supported the property's purchase price over its appraised value). However, the purchase must meet the conditions for a market sale. As explained in the Manual, market value is:

[T]he most probable price, as of a specified date, in cash, or terms equivalent to cash, or in other precisely revealed terms, for which the specified property right should sell *after*

reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and *assuming neither is under undue duress*.

MANUAL at 5-6 (emphasis added).

- d) Here, there is insufficient evidence to conclude that the Petitioner's purchase price is indicative of the market value-in-use. Specifically, the Petitioner failed to offer sufficient evidence that the circumstances surrounding this transaction make it a reliable indication of market value-in-use. Further, he did not offer other pertinent details regarding the sale and as the Respondent correctly pointed out "there is a lack of information surrounding the purchase."
- e) Additionally, even without the aforementioned issues, the Petitioner purchased the property well over a year before the January 1, 2016, valuation date and he failed to relate his purchase price to the relevant valuation date. For these reasons, the purchase price lacks probative value.
- f) The Petitioner also introduced evidence of two properties listed for sale in Winchester. A taxpayer may prove the value of his property by comparing it to similar, or comparable, properties that have sold in the market; that is precisely the theory behind the sales-comparison approach to value. MANUAL at 9-10. But to use that approach, the taxpayer must both prove the properties are comparable and explain how any differences between the properties affect their values, using generally accepted appraisal principles. *Id.*; *Long*, 821 N.E.2d at 470-71. Even if the Board were to find that a "listing" is probative evidence, the Petitioner's evidence is insufficient to conclude the purportedly comparable properties are actually comparable to the subject property. Conclusory statements that a property is "similar" or "comparable" to another property are not sufficient. *Long*, 821 N.E.2d at 470. Additionally, the Petitioner failed to account for any differences between the properties. For these reasons, this evidence lacks probative value.
- g) Finally, the Petitioner testified the subject property is currently listed for \$24,500. However, the Petitioner failed to offer any details regarding the listing and omitted important details such as when and how long the property has been listed. For these reasons, the current listing also lacks probative value.
- h) Consequently, the Petitioner failed to make a prima facie case that the 2016 assessment is incorrect. Where a Petitioner has not supported its claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-22 (Ind. Tax Ct. 2003).

Conclusion

18. The Board finds for the Respondent.

Final Determination

In accordance with these findings and conclusions, the 2016 assessment will not be changed.

ISSUED: August 30, 2017

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days of the date of this notice.

The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.